

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Petition for Agreement with Redefinition of Service Areas of)	DA 04-3506
Certain Rural ILECs in the State of Michigan)	

OPPOSITION OF CENTURYTEL, INC.

CenturyTel, Inc. ("CenturyTel"), through its attorneys, hereby opposes the above-referenced proceeding.¹

I. INTRODUCTION

On September 21, 2004, the Michigan Public Service Commission ("Michigan PSC") designated Dobson Cellular Systems ("Dobson") as an eligible telecommunications carriers ("ETC") in rural incumbent local exchange carrier ("ILEC") study areas for the purpose of receiving high-cost support from the federal universal service program.² On October 26, 2004, Dobson filed a petition at the FCC for consent to redefine the service areas of certain rural telephone companies in Michigan ("Rural ILECs").³ Specifically, Dobson requested FCC approval to redefine its service areas in areas served by the following three CenturyTel companies to the individual wire center of each company: CenturyTel of Midwest-Michigan,

¹ *The Wireline Competition Bureau Seeks Comment on Petition to Redefine Rural Telephone Company Service Areas in the State of Michigan*, Public Notice in CC Docket 96-45, DA 04-3506 (rel. Nov. 3, 2004) ("Public Notice").

² *In the Matter of the Application of Dobson Cellular Systems, Inc., for Designation as an Eligible Telecommunications Carrier*, Case No. U-14257 (Sept. 21, 2004) ("Dobson Designation Order").

³ *Dobson Cellular Systems, Inc. Petition for Agreement with Redefinition of Service Areas of Certain Rural ILECs in the State of Michigan*, filed in CC Docket No. 96-45 on October 26, 2004 ("Petition").

Inc.; CenturyTel of Michigan, Inc.; and CenturyTel of Upper Michigan, Inc. On November 3, 2004, the FCC sought comment on the Petition.⁴

II. THE FCC SHOULD NOT ALLOW CENTURYTEL'S STUDY AREA TO BE CHANGED WITHOUT A WRITTEN FCC DECISION

Section 54.207(c)(3)(ii) of the FCC's rules provides that, if the FCC declines to act on a petition for redefinition of a rural service area within 90 days of the public notice, the petition will automatically be deemed approved by the FCC.⁵ As CenturyTel has argued in prior pleadings in CC Docket No. 96-45, Section 214(e)(5) of the Communications Act of 1934, as amended (the "Act"), requires the FCC to take into consideration the Federal-State Joint Board's recommendations before changing the study area for a rural ETC. A written decision is physical evidence of whether the FCC actually considered the Joint Board's recommendations. Furthermore, the FCC has an obligation to consider all the arguments made -- both in support of *and* against the Petition. As demonstrated herein, there is considerable debate regarding the merits of the Petition, which the FCC must demonstrate that it has fully considered.

The current controversy surrounding the Joint Board's recent Recommended Decision concerning ETC designations further demonstrate the need for a written decision in this case. Although the Joint Board endorsed the current processes in place for consideration of requests for service area redefinition, in his strongly worded dissent, Joint Board Member and FCC Commissioner Kevin Martin stated:

I would have . . . preferred that the Joint Board recommend that the Commission require ETCs to provide service throughout the same geographic service area in order to receive universal service support. This obligation would help guard against the potential for

⁴ Public Notice.

⁵ 47 C.F.R. § 54.207(c)(3)(ii).

creamskimming. I would have supported a recommendation to deny future requests to redefine the service areas of incumbent rural telephone companies -- *and to deny ETC designations in instances where an ETC's proposed service area does not cover the entire service area of the incumbent service provider.*⁶

CenturyTel could not agree more. The FCC should not allow the Petition to take effect automatically as it sometimes has done in the past.⁷ Rather, as it did in another Michigan redefinition petition,⁸ the FCC should initiate a proceeding here to thoroughly consider the financial and consumer impact of redefining the Rural ILECs' service areas as proposed in the Petition.

III. PERMITTING CETCS TO PICK AND CHOOSE AMONG INDIVIDUAL WIRE CENTERS DISSERVES UNIVERSAL SERVICE PRINCIPLES AND IGNORES SUBSETS OF CUSTOMERS

Rural carriers have been given the choice to disaggregate support below the study area level because this allows the carriers to more accurately target per-line support to the relatively higher cost lines, as the FCC and the Rural Task Force intended. In the *RTF Order*, the Commission permitted rural carriers to elect one of three paths to disaggregate and target per-line high-cost support into geographic areas below the study area level.⁹ Under the *RTF Order's* Path 3 self-certification process, carriers were allowed to choose a disaggregation plan of no

⁶ *Joint Board Recommended Decision*, Separate Statement of Commissioner Martin, at 2.

⁷ See Application for Review or, Alternatively, Petition for Reconsideration of CenturyTel of Eagle, Inc. filed in CC Docket 96-45 on Dec. 17, 2002.

⁸ *The Wireline Competition Bureau Initiates Proceeding to Consider the Alltel Communications, Inc. Petition to Redefine the Rural Telephone Company Service Areas in the State of Michigan*, Public Notice in CC Docket 96-45, 19 FCC Rcd 4651 (2004).

⁹ *In the Matter of Federal-State Joint Board on Universal Service, Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, 16 FCC Rcd 11244 (2001) ("*RTF Order*").

more than two cost zones per wire center or a disaggregation plan that complies with a prior regulatory determination.¹⁰ As discussed below, on May 13, 2002, CenturyTel of Midwest-Michigan, Inc., CenturyTel of Michigan, Inc., and CenturyTel of Upper Michigan, Inc. elected to disaggregate and target high-cost universal service support under Path 3 in the state of Michigan.¹¹

In those instances where CenturyTel chose Path 3, CenturyTel urges the FCC to partition the current service area into two zones and require Dobson to serve all of the wire centers within the zone. Doing so would be consistent with CenturyTel's disaggregation plan and would serve the public interest. The disaggregation plan for the CenturyTel companies that chose Path 3 established two support zones for the entire study area, with each wire center assigned to one or the other zone. For disaggregating loop-related support, CenturyTel defined a lower-cost zone for those wire centers requiring relatively less loop-related support, while the remaining support assigned to the study area was distributed to the remaining lines in the higher cost wire centers. Separating the state into two support zones, as CenturyTel did, decreases the chances that support will be misdirected. Although CenturyTel was able to calculate relative cost down to the wire center, support was established based on two support zones – not multiple smaller areas. Each of the two zones is comprised of wire centers with relatively similar cost characteristics, although costs are averaged within each zone. Dividing the current service area, comprised of the entire study area, into multiple ETC service areas is inconsistent with CenturyTel's two-support zone disaggregation filing and will not bring the benefits of competition to all customers. It would allow a carrier that does not have to serve an entire zone

¹⁰ 47 C.F.R. § 54.315(d).

¹¹ <http://www.universalservice.org/hc/disaggregation/checklist.asp>.

to target only the most profitable wire centers within the zone and receive high-cost support even though the CETC's average costs for the smaller area may be lower than the ILEC's average costs for the entire zone.

IV. DOBSON SHOULD BE REQUIRED TO SERVE THE ENTIRE TERRITORY OF THE RURAL ILECS THROUGH A COMBINATION OF FACILITIES AND RESALE

In the Dobson designation proceeding, the Michigan PSC provided minimal analysis in support of its decision to designate Dobson as an ETC. Most notably, it did not require the CMRS carrier to serve the study areas of the Rural ILECs in their entirety. The Act and the FCC's rules require ETCs to serve the ILEC's entire study area either using their own facilities or a combination of their own facilities and resale of another carrier's services,¹² unless the state and the FCC affirmatively find it would serve the public interest to forego this requirement. The Michigan PSC provided no meaningful analysis in this regard. Rather, it cursorily concluded that "ETC designation for Dobson promotes competition and is in the public interest."¹³

Promoting competitive entry alone is not enough of a justification to satisfy the public interest standard set forth in Section 214(e) of the Act. Moreover, nothing in the record suggests that any new competitive entry will occur. The Petition does not assert that Dobson is a new service provider in CenturyTel's study area. Nor does the Petition require Dobson to provide service throughout CenturyTel's study area, thereby truly bringing competitive choice to *all* customers not now served by Dobson. The lack of facilities does not preclude competitive ETCs from serving the ILEC's entire study area. Dobson can and should be required to expand

¹² 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.201(d)(1).

¹³ *Dobson Designation Order* at 2.

its coverage to serve the Rural ILECs' entire study areas through some combination of its own facilities and resale of another carrier's services, as required by Section 214(e) of the Act. The Petition will not bring rural consumers the increased competitive choice that the Michigan PSC anticipates it will, and could have the effect of diminishing rural ILEC investment.

V. THE FCC MUST RESOLVE THE ISSUES RAISED IN THE CETC PROCEEDING BEFORE REDEFINING SERVICE AREAS

CenturyTel believes that redefining the Rural ILECs' service areas in the manner proposed by the Petition is premature. The Commission has before it a comprehensive proceeding in which it is considering the *Joint Board Recommended Decision*, and has sought comment on the process for consideration of requests for service area redefinitions. The FCC also has before it a number of specific requests to modify rural service areas for competitive ETCs that do not desire to serve the entire study area of the rural LEC on whose federal universal support they desire to draw.¹⁴

FCC precedent demonstrates that service area redefinitions have broad applications and lower the bar for *all* subsequent competitive ETC designations in the rural carrier's service area with no perceptible benefit for rural customers who live in those service areas.¹⁵ This outcome, however, is contrary to Section 214(e) of the Act, which requires that each rural ETC designation must be reviewed and granted only if determined to be in the public

¹⁴ *Pleading Cycle Established for Comments Regarding Applications for Review of Orders Designating Eligible Telecommunications Carriers in the State of Alabama*, FCC Public Notice in CC Docket 96-45 (rel. Jan. 10, 2003); *Pleading Cycle Established for Comments on Proceeding Regarding the Definition of the Rural Service Areas of Two Rural Telephone Companies in the State of Colorado*, FCC Public Notice in CC Docket 96-45, DA 03-26 (rel. Jan. 7, 2003).

¹⁵ *Cellular South Alabama ETC Order* at ¶ 2 (holding that the CETC applicant's request to redefine CenturyTel's service area to the wire center level was "moot," because the Commission has "recently agreed to a redefinition of the service areas of these rural telephone companies").

interest. Comments on the Joint Board's Recommended Decision further explore the benefits and burdens to the public of supporting ETCs that do not serve the same area as the ILEC.¹⁶

The FCC should postpone decision in this case until it reaches a decision on the recommendations of the Joint Board in the pending rulemaking proceeding.¹⁷ Deferring a decision for the brief period until the FCC issues an order based on the Joint Board's recommendations will not harm Dobson as it is already providing service in CenturyTel's study area. At the very least the FCC should initiate a proceeding here just as it has done recently in other proceedings seeking to redefine service areas.

VI. CONCLUSION

CenturyTel opposes the Petition to redefine CenturyTel's service area at the wire center level. The FCC should not permit carriers like Dobson to pick and choose among individual wire centers. Rather, they should be required to serve the Rural ILECs' entire territory through a combination of their own facilities and resale of another carrier's services. CenturyTel urges the FCC to delay the redefinition of the Rural ILECs' service areas until the FCC resolves the issues raised in the CETC designation rulemaking. In any event, the FCC should not allow CenturyTel's service area to be changed without a written FCC decision.

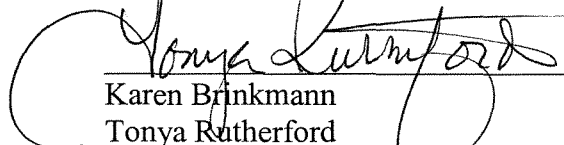
¹⁶ Comments filed by CenturyTel, Inc. in CC Docket No. 96-45 on Oct. 15, 2004.

¹⁷ *Federal State Joint Board on Universal Service*, FCC 04J-1, CC Docket No. 96-45, Recommended Decision at ¶96 (rel. Feb. 27, 2004). By statute, the FCC must act on this recommendation by February 27, 2005.

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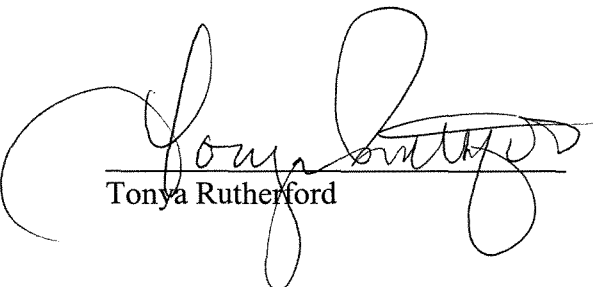
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Opposition was sent by 1st Class US mail, this 17th day of November 2004, to:

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